

General allegation

121st session (11-15 May 2020)

Iraq

15. The Working Group on Enforced or Involuntary Disappearances received information from reliable sources on obstacles encountered in the application of the Declaration on the Protection of All Persons from Enforced Disappearances in Iraq.

16. According The Working Group received information concerning alleged violations and obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance in Iraq.

17. It is reported that despite the documenting of continued enforced disappearances in Iraq by Iraqi security forces authorities in Baghdad and in the Kurdistan Region have done little to punish officers implicated in disappearances.

18. The source provided information on documented instances of enforced disappearance in Iraq between 2014 and 2020 as summarised in the following paragraphs.

Human Rights Watch Recorded cases of enforced disappearances between 2014 and 2017

19. According to information received, between April 2014 and October 2017, 78 cases of enforced disappearance were recorded by Human Rights Watch in Iraq. Of the 78 cases concerning both men and boys, thirty-four were detained by military and security forces at checkpoints during screening procedures as part of operations to counter ISIS; while another thirty-seven were taken from their homes. Thirty-three cases of enforced disappearances that occurred at checkpoints targeted people who were from or lived in areas that were under ISIS control. Those who were arrested at home were not given any information as to the reason for their arrest. However, relatives suspected that arrests were linked to their identity as Sunni Arabs. In at least six cases, the circumstances of the arrest allegedly indicated that they were carried out in relation to the fight against ISIS. In three of these cases, the arresting officers reportedly used excessive force leading in one case to the death of a relative. The 78 victims of enforced disappearance were detained either by the Popular Mobilization Forces (hereafter PMF) -allegedly under the control of the Prime Minister- or by the National Security Service and kept in unofficial places of detention. Those who reappeared were detained during 34 to 130 days and all reported having been subjected to torture.

20. It is reported that none of the families of the 78 victims of enforced disappearances had a clear idea of which authority they should contact to inquire about their fate and whereabouts of their relative. Thirty-eight families requested information regarding their missing relative from Iraqi authorities but received no information, while the other families had not sought information, fearing inquiries would seriously jeopardize their relatives' safety.

21. The source reported having transmitted, in June 2018, communications to the human rights adviser of the Prime Minister's Advisory Council in Baghdad and to the Kurdistan Regional Government's coordinator for international advocacy containing a list of the disappeared, indicating approximate dates and locations where they were last seen. On 18 September 2018, the Kurdistan Regional Government responded with information about the number of individuals its forces detained on the basis of suspected affiliation with ISIS and provided details regarding its arrest procedures. The response did not include any information on the fate and whereabouts of any of the victims listed in the communication by the source. Authorities in Bagdad never provided a response. According to the information

provided by the source, the families of the cases who were brought to the attention of the authorities have not yet received any information on their whereabouts.

22. The source further reported that during the June-July 2016 military operations by Iraqi security forces against the Islamic State in the city of Fallujah in Anbar governorate, government forces carried out summary executions, enforced disappearances, and mutilation of corpses and beatings of unarmed men. On 5 June 2016, 600 men detained during the operation, most of whom belonged to the Mahamda clan, were released by security forces in the Hayy al-Shuhada area in Saqlawiva. These men reported that PMF fighters had taken away at least another 600 Mahamda men whose fate and whereabouts remained unknown.

23. In the first days of the military operation, Iraqi security forces forced civilians living in a town called Karma to leave the area, causing an exodus during which at least 70 young men disappeared, their families have no information about their whereabouts. The number of missing men was confirmed to the source by a member of the Anbar governorate council. On 4 June 2016, then-Prime Minister Haider al-Abadi launched an investigation into abuses in Fallujah and ordered to arrest those responsible for “transgressions” against civilians. On 7 June 2016 al-Abadi announced the “detention and transfer of those accused of committing violations to the judiciary to receive their punishment according to the law.” In December 2019, five hundred bodies were discovered in a mass grave just outside Fallujah by the Iraqi authorities. The families assumed they were the remains of missing men from the Mahamda clan. According to the source, the authorities have not yet carried out any exhumation of the site, nor confirmed to the families of the disappeared whether the bodies belong to their missing relatives.

Disappearances of ISIS Suspects

24. In March 2017, the Iraqi Ministry of Interior held at least 1,269 detainees, including boys as young as 13 years old, without charge, in terrible conditions, with limited access to medical care, in three makeshift prisons, two of which are located in Qayyarah and the third one at a local police station in Hammam-al-Alil. On 2 February 2017, Justice Minister Haidar al-Zamili informed the source that neither the detainees in Qayyarah nor those charged with terrorism under the counterterrorism law (Law no. 13/2005) had been allowed to communicate with their families during the investigation period. Since 2016, many Iraqi families informed the source of the detention of their relatives on charges of ISIS affiliation and their inability to obtain information about their whereabouts. It is reported that the Iraqi army screened and detained men fleeing Mosul at an unidentified detention centre. These men were held without any possibility to communicate with the outside world. On 10 January 2017, the source received information that PMF fighters were coming to the screening site daily at night to take away groups of men. The men were taken regardless of whether their name figured on a list drawn by the authority with the identity of those “wanted” for ISIS affiliation. The detention of these men due to a presumed ISIS affiliation was confirmed to the source by a PMF fighter. The fate and whereabouts of these men is unknown.

Detention of Children in the Kurdistan Region of Iraq

25. The source reported the detention of children in the Kurdistan Region of Iraq. In November 2018, the source interviewed 20 boys aged 14 to 17 charged or convicted of ISIS affiliation at the Women and Children’s Reformatory in Erbil (one of three facilities holding children in the Kurdistan Region of Iraq). It is reported that 63 children were being held at the prison for terrorism-related charges, including 43 who had been convicted. All of the boys indicated that they were not allowed to communicate with their families while under the custody of the Kurdistan Regional Government’s security forces, Asayish, until they were taken to the reformatory where they were allowed to have family visits prior the trial. However, most of them were reportedly denied telephone calls after conviction, making it impossible for some of them to inform their families of their whereabouts. While the regional government’s coordinator for international advocacy informed that families were

notified of the detention of their child and that detained children are allowed to call their families in presence of officers of the Asayish, the prison staff reported that the Asayish determined whether detainees can receive visits or telephone calls.

Disappearances of Detainees in Kirkuk

26. The source also reported disappearances of detainees in Kirkuk. In 2017, 350 detainees held by the Kurdistan Regional Government in the city of Kirkuk were feared to have been forcibly disappeared. Those missing were mainly Sunni Arabs, internally displaced to Kirkuk or residents of the city, detained by the Asayish on suspicion of ISIS affiliation after the regional forces took control of Kirkuk in June 2014. Local officials reportedly indicated that when Iraqi federal forces regained control of the area on 16 October 2017, the detainees were no longer present in the official or unofficial detention facilities in Kirkuk. Following demonstrations in Kirkuk on 7 November 2017 demanding information on people allegedly detained by Asayish forces, then Prime Minister Haider al-Abadi requested an investigation on the disappearances. However, on 8 November 2017, the former head of the security committee of Kirkuk's provincial council, reportedly denied any involvement of the Asayish forces in any disappearances and blamed these on US forces previously present in Kirkuk. Kirkuk's acting governor and a Kirkuk police chief reported that following the protest, Asayish forces handed 105 detainees over to Iraqi federal forces in Kirkuk. These detainees were first held in Kirkuk and then transferred to facilities in Sulaimaniya. Families have submitted complaints to the Kirkuk branch of Iraq's Human Rights Commission regarding the disappearance of at least 350 other men whom the Kurdistan Regional Government had allegedly detained in and around Kirkuk.

27. Between August 2015 and October 2017, 27 Sunni Arab men were witnessed being arrested by identifiable Asayish forces in Kirkuk or south of the city. Relatives of the 27 men have not been able to communicate with them since their arrest, nor receive any official information about their whereabouts. For all 27 cases, relatives reported that they had asked local Asayish forces or local police about their relatives but never received an official acknowledgement of their detention or information about where they were being held or why. In some cases, relatives reported that they were able to obtain information from informal channels indicating that their relatives were being held by the Asayish forces in other parts of the Kurdistan Region.

28. In 2017, detainees who were released from the al-Salam military base, informed four families that their disappeared relatives were being held at this location. The Asayish forces allegedly run a number of informal detention facilities in Sulaimaniya.

Disappearances linked to the October 2019-March 2020 Protests

29. It is further reported that enforced disappearances occurred in the context of the October 2019-March 2020 protests. These protests started in Baghdad and other cities in central and southern Iraq on 1 October 2019. Seven people, including a 16-year-old boy, were reported missing on 7 October in and around Baghdad's Tahrir Square, where they were participating in ongoing demonstrations. As of 2 December 2019, four of them were still missing. Their relatives inquired about them at police stations and government offices, to no avail.

30. Nine other cases were reported of persons who had been detained at the protests and subsequently went missing. However persons associated with the nine reported cases were allegedly too frightened to share details as they feared it could impact on the safety of the missing relative.

31. The source documented in details a number of abductions followed by a period of disappearance.¹ These included:

¹ See Human Rights Watch submission to the WGEID, <https://www.hrw.org/news/2020/05/18/iraq-human-rights-watch-submission-working-group-enforced-or-involuntary>.

(a) A woman abducted on 2 November 2019 while she was on her way home after having distributed food, water, and first aid kits to protesters in Tahrir Square. She was released on 13 November 2019 and had been kept blindfolded for the entire period of her enforced disappearance;

(b) A man abducted on 7 October 2019 during the first wave of protests and released on 24 October 2019;

(c) A man arrested on 20 November 2019 without being able to contact anyone. He was reported missing and a complaint was filed at a local Baghdad police station. He was released on 28 November 2019 and reported that he had been arrested by federal police at a checkpoint on his way to the 20 November protests. On 21 November, he was reportedly presented to a judge, who told him that no charges were being brought against him. However, he remained under custody incommunicado until his release. He was therefore forcibly disappeared between 20 and 28 November;

(d) A man who was last seen on 22 October 2019 at the Tahrir Square protest. Despite inquiries at four police stations, his fate and whereabouts remained unknown as of December 2019;

(e) A man who was last seen on 28 October 2019 at the front line of the protests. His relatives inquired about him at police stations and government offices, to no avail. He was still missing as of December 2019;

(f) A woman reportedly abducted on 8 November 2019 at the protests after having posted a video of herself on Facebook criticizing the prime minister and expressing support for the protesters. Relatives inquired about her in two police stations in Baghdad, to no avail. She was released on 12 November 2019;

(g) A 16-year-old boy forcibly disappeared on 28 November 2019 after he went to Tahrir Square to protest. Relatives inquired about him in three police stations, to no avail. He was still missing as of December 2019.